IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4807 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KANTABEN BABALDAS PATEL

Versus

ADDITIONAL DIRECTOR/COMMI.

Appearance:

1. Special Civil Application No. 4807 of 2004

MR DR BHATT for Petitioner No. 1

MS REETA CHANDARANA, AGP for Respondent No. 1 & 2.

MR MP PRAJAPATI for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 02/03/2005

ORAL JUDGEMENT

Counsel for the petitioner seeks permission to delete respondent No.4. Permission granted.

2. Rule. Learned AGP Ms.Chandarana waives service of rule on behalf of respondent 1 & 2 and Mr.M.P.Prajapati waives service of rule on behalf of respondent No.3. At the joint of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

3. In this petition, the petitioner has claimed medical reimbursement for the treatment that she took on or around 29th November 2002.

4. The petitioner who is serving as a Primary Teacher with the respondent No.3 has filed this petition since her request for medical reimbursement has been turned down by the Government. The petitioner has stated in the petition that she has been working since 25 years in the said capacity. In the month of November 2002, she had some sudden health problems and her health deteriorated and upon consultation with the doctors and medical check up it was found that the petitioner was suffering from cancer. The petitioner, therefore had to undergo a surgery for breast cancer. The petitioner took the said treatment at a private hospital called Bharti Hospital at Patan where she was posted and residing. The petitioner submitted the necessary bills for the operation and other treatment totalling to Rs.62,485/= to the Director of Medical and Health Services. However, her claim came to be turned down by the respondents.

5. In the affidavit in reply, respondent No.1 has stated, inter alia, that as per the Government Resolution dated 30th December 1988, the case of the petitioner was not covered for medical reimbursement since the petitioner did not take prior approval from the authorities before taking treatment from a private hospital and that she also put her claim beyond the period of limitation prescribed in the said circular. It is, however, stated that her case for reimbursement as a special case cannot be considered by the answering respondents for want of authority.

6. The fact of illness of the petitioner is not in dispute. It is also not in dispute that the petitioner did take treatment and underwent the operation for breast cancer. All that is being suggested is that the petitioner did not take prior approval from the authorities for taking treatment in a private hospital. It is also not in dispute that the Government has power to relax these requirements in special cases.

7. Considering the fact that the petitioner was suffering from a very serious ailment for which she had to undergo an operation and considering the fact that there is no dispute about the fact that the petitioner did take treatment as contended, the Government is directed to consider her case for medical reimbursement as a special case. While considering the case of the petitioner, it will be open for the Government to verify the details of the treatment that the petitioner received. If the case of the petitioner is accepted as recommended, medical expenditure shall be reimbursed to her within the permissible limits. Such a decision be taken within a period of four weeks from the date of receipt of a copy of this order. With these directions, the petition is disposed of. Rule is made absolute to the above extent with no order as to costs. Liberty to apply in case of difficulty.

Direct service is permitted.

(Akil Kureshi, J.)
(vjn)